



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MAR 23 2000

Ms. Sherene Rahman
1497 Weyburn Road
Baltimore, Maryland 21237

Dear Ms. Rahman

Thank you for your letter of December 31, 1999 to President Clinton requesting support of limits on the interstate transport of solid waste. The White House forwarded your letter to the Environmental Protection Agency (EPA) as we are responsible for ensuring the safe management of solid waste across the country.

EPA has no authority to regulate the transport of waste between states. The Resource Conservation and Recovery Act (RCRA) provides authority for EPA to develop regulations for the disposal of municipal solid waste (MSW), but not for its transportation or storage. The Commerce Clause of the U.S. Constitution prohibits states from erecting barriers to interstate commerce by reserving the power to regulate commerce for the Congress. As noted in your enclosures, recent court decision have overturned state laws that discriminate against waste coming to privately-owned facilities from out-of-state. Unless Congress grants limited immunity from the Commerce Clause to allow this, states will not be able to impose a system of sanctions and incentives on privately-owned facilities. However, lower court decision have allowed state or local bans to exist when they only restrict the flow of waste to a government-owned facility.

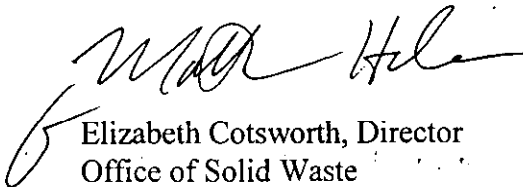
The Agency has not taken a position on interstate transport legislation because we do not believe this issue is fundamentally an environmental issue. It is primarily a fairness and equity issue as well as an economic issue. EPA has established national regulations that ensure the safe management of MSW, regardless of where it is disposed. Therefore, EPA has remained neutral on interstate transport of MSW. The need for legislation is a matter for the states and Congress to debate. We have in the past, and will continue, to offer technical assistance to those drafting legislation on this topic. As a practical matter, open borders for the movement of MSW are not absolutely necessary to ensure safe management of MSW, but can greatly reduce disposal cost.

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I am enclosing a copy of the most recent report which describes the interstate movement of waste, prepared by the Congressional Reference Service of the Library of Congress. The report shows that in 1998, about 13 percent of MSW (28.4 million tons) moved between states. New York, Illinois, New Jersey and Maryland were the largest exporters of MSW.

Again, thank you for your letter. The Administration will continue to provide technical assistance to Congress to ensure the safe and cost effective management of solid waste here in the United States.

Sincerely,



Elizabeth Cotsworth, Director
Office of Solid Waste